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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International League for the Rights and Liberation of Peoples, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[5 August 1991]

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A. Water for the Palestinians

1. Since the war of June 1967, the West Bank and the Gaza Strip have been occupied by the Israeli armed forces. A distinctive and distressing aspect of this occupation is the occupying Power's claim that the territory captured by force of arms, that is the remaining 20 per cent of the historical land of Palestine, is part of "Eretz Yisr'il", and the implementation of this claim by the systematic seizing of private Palestinian property and the use of such property mainly for the purpose of establishing and expanding Jewish colonies in the occupied territories.

2. In this context, the International League for the Rights and Liberation of Peoples wishes to direct attention towards the exploitation of water resources for the benefit of Jewish colonies in the occupied territories with respect to the United Nations resolutions on the permanent sovereignty over natural resources of the occupied Palestinians, to the exercise of their rights and to the obligations of Israel as an occupying Power.

General situation in brief

3. Israel's water policy in the occupied territories is a natural sequel to its broader designs of colonizing and ultimately annexing these territories. Water in the occupied territories, however limited, is practically the only natural resource that Palestinians have.

4. Israel has issued several military orders to govern and control water resources in the West Bank and the Gaza Strip (Water Legislation, Military Order No. 92, 7 June 1967; No. 158, 29 December 1967; No. 291, 22 June 1969; No. 457, 12 September 1972, No. 498, 4 November 1974). Since its occupation of the West Bank, Israel has issued to Palestinians only five permits to drill new wells. Meanwhile it has issued to Jewish settlers some 25 permits to drill to a depth of 300-500 metres. The production capacity of the wells belonging to Jewish settlements is equal to about 40 per cent of the amount of water produced by a total of some 330 wells in the West Bank. At the time of the occupaton, there were approximately 720 wells in the West Bank; about 330 are still working, the others having dried up and/or been destroyed.

5. Within its pre-1967 borders, Israel was able to tap about one third of its annual water needs (600 million cu m) from the West Bank aquifer. Such overpumping has affected the quality and pressure level of Palestinian wells.

6. Israel now meets a full 30 per cent of its entire water needs by direct extraction and diversion from West Bank sources. This represents 80 per cent of West Bank reserves. As if the picture was not grim enough, a new threat is looming with the massive influx of Soviet Jewish immigrants to Israel. Even if they are not immediately settled in the occupied territories, the Israeli Water Authority estimates that the arrival of 3 million of them would raise annual demand for water by 650 million cubic metres (cu m).

7. The Minister of Agriculture of Israel, Rafael Eitani, asserted that Israel needed West Bank water and claimed that withdrawal from the occupied territories would endanger its very survival (advertisement published in the Jerusalem Post on 10 August 1990).

8. Under the Israeli quota system, Palestinian inhabitants of the West Bank receive only a fraction of the water allowed to the Israelis: 115-142 cubic metres per person, in contrast to 537 cubic metres per person in Israel proper and a staggering 965 cubic metres per Israeli settler in the West Bank itself. The effect is to limit Palestinian water consumption to 20 per cent of the resources available in the West Bank.

9. Besides the capping of wells, other Israeli controls limit Palestinian water consumption. Palestinians have to pay twice as much for their water, and farmers receive none of the subsidies that their Israeli counterparts enjoy. more seriously, not only is the digging of new artesian wells or the restoration of old ones illegal without prior permission from the military authorities, but permits must be obtained before simple rainwater catchments can be constructed. Even primitive collection ponds in village squares are restricted by the Israelis, supposedly in the name of preserving nature and the environment.

10. Israel controls the West Bank underground water supplies, thus achieving two objectives: providing water for the Jewish colonies and for Israel proper.

11. In some areas the control is man-made, as in the Bureij refugee camp, in the Gaza Strip, where hundreds of homes no longer receive drinking water. The Israeli authorities have simply cut off the supply, on the pretext that many bills are unpaid or payments uncollected following the resignation of the local council. Every day, camp residents form long queues at a petrol station one kilometre away where there is a water pump, or fill jerry-cans from donkey-drawn tankers on the beach.

12. The abuse and illegal use by the occupying Power of the occupied territories has been a cause of concern at the United Nations. In its resolution 36/173 of 17 December 1981, the United Nations General Assembly requested the Secretary-General to prepare a report on the implications, under international law, of the United Nations resolutions on permanent sovereignty over natural resources in the occupied Palestinian and other Arab territories and on the obligations of Israel concerning its conduct in these territories.

B. The principle of permanent sovereignty of peoples and nations over their resources

13. The principle of permanent sovereignty over natural resources found its first expression in the United Nations during the early 1950s in the parallel fields of economic development and human rights. On the economic side, the General Assembly, acting on reports of its Second Committee, adopted resolution 523 (VI) of 12 January 1952 and, more particularly, resolution 626 (VII) of 21 December 1952, in which it recalled that the right of peoples freely to use and exploit their natural wealth and resources was in their sovereignty and was in accordance with the purposes and principles of the Charter of the United Nations.

14. At its twenty-seventh session in 1972, the General Assembly, acting on the report of the Special Political Committee affirmed in its resolution 3005 (XXVII) "the principle of the sovereignty of the population of the occupied territories over their natural wealth and resources" (para. 4).

15. The General Assembly later reaffirmed that all measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied territories were illegal and called upon Israel to desist immediately from such measures (resolutions 37/135, 36/173, 35/110, 34/136 and, with variations, 31/186, 3236 (XXIX) and 3171 (XXVIII).

C. The law of belligerent occupation

16. The primary principle on which the law of belligerent occupation rests is that the occupation does not bring about any acquisition or transfer of sovereignty. Sovereignty remains where it was before the occupation, although its exercise may be suspended when it conflicts with the rights of the occupant.

17. Both the principle of permanent sovereignty and the law of belligerent occupation have as an important purpose the protection of sovereign rights over land and other natural resources. In addition they lay upon the occupying Power the responsibility for internationally illegal acts.

D. Implications of United Nations resolutions

18. In the light of what precedes, the following implications of United Nations resolutions on the permanent sovereignty over natural resources for the occupied Palestinian territories and for the obligations of Israel concerning its conduct in those territories might be considered.

(a) The primary right of peoples and nations to permanent sovereignty over their natural resources is the right freely to use, control and dispose of such resources. The full exercise of this right by the Palestinian people can only take place with the restoration of its control over the occupied territories.

(b) The second implication is that control over land, water and other natural resources should be restored to the local population.

(c) A third implication would be that the occupying Power is under an obligation not to interfere with the exercise of permanent sovereignty by the local population.

(d) A fourth implication would be the strengthening of the protection of the natural resources of the occupied territories afforded by the law of belligerent occupation. In any event such resources could not be used by the occupying Power beyond the limits imposed by the Regulations concerning the Laws and Customs of War on Land annexed to The Hague Convention of 18 October 1907 and the Geneva Convention, relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

(e) A fifth implication would be to reinforce a right under international law to reparation for any loss or damage to natural resources suffered as a result of violations of the rules of belligerent occupation.

Any tampering with the wealth and natural resources of the Palestinian population would necessarily frustrate their objective of establishing their own State and would render their claim to self-determination meaningless.

19. For 24 years, the Palestinians have been waiting for justice to take its course. The United Nations must act now, as it is in a very strong position to take action and follow up its own resolutions. The intervention of the United Nations is a political necessity. Much more, such intervention is an international legal obligation. This obligation arises in the first place under Article 1, and Article 14 of the Charter.

20. The United Nations faces a choice: either uphold the Charter and use the coercive means that it has envisaged, or bow to the rule of force. The primary aim of the United Nations intervention must be to eradicate the injustice imposed on the Palestinian people.